



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

WW-16J

APR 21 2014

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. James Dillenger  
6664 A. Road  
Valmeyer, IL 62295

Re: Request for Information Under Section 308(a) of the Clean Water Act (CWA),  
33 U.S.C. § 1318(a)

Dear Mr. Dillenger:

The U.S. Environmental Protection Agency, Region 5 is issuing this request for information pursuant to the authority granted to it under Section 308(a) of the CWA, 33 U.S.C. § 1318(a), and the regulations promulgated thereunder.

The EPA is authorized under Section 308(a) of the CWA, 33 U.S.C. § 1318(a), to require the owner or operator of any "point source," as defined in 33 U.S.C. § 1362(14), to provide certain information, establish records, and make such reports as necessary to carry out the objectives of the Act. The EPA submits the enclosed information request to you, James Dillenger, to determine whether you are in compliance with the CWA.

If you have any questions regarding this Information Request, please contact Mr. Yone Yu at (312) 886-2260, or your counsel may contact Mr. Richard Clarizio at (312) 886-0559.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tinka G. Hyde".

Tinka G. Hyde  
Director, Water Division

Enclosure

cc: Danny D. McClendon, Chief  
Regulatory Branch  
U.S. Army Corps of Engineers, St. Louis District  
1222 Spruce Street  
St. Louis, MO 63103-2833

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

**James Dillenberger  
Valmeyer, Illinois**

**Respondent.**

**REQUEST PURSUANT TO SECTION  
308 of the CLEAN WATER ACT  
(CWA), 33 U.S.C. • §1318(a)**

**DOCKET NO. V-404-308-14-21**

**INFORMATION REQUEST**

The U.S. Environmental Protection Agency is requiring you, James Dillenberger, to submit certain information regarding the alleged discharge of dredged or fill material into waters of the United States located in the Section 27, Township 2 South, Range 11 West, Monroe County, Illinois (the "Site"). The alleged discharges occurred in conjunction with the mechanized land clearing of forested wetland areas along the shoreline of Moredock Lake. Appendix B specifies the information you must submit relating to the Site. The EPA requests this information under the authority of Section 308 of the Clean Water Act ("CWA"), 33 U.S.C. § 1318, to determine whether you are in violation of the CWA.

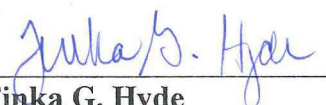
Appendix A contains general instructions and definitions that you should use to provide the requested information. Under 40 C.F.R. Part 2, Subpart B you may assert a claim of business confidentiality for any portion of the submitted information. The general instructions in Appendix A include specific procedures for assertion of business confidentiality claims.

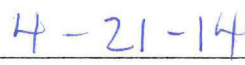
If you fail to comply with this request, we may take enforcement action against you under Section 309 of the CWA, 33 U.S.C. § 3319, which contains specified civil and criminal penalties. We have the authority to use the information you provide in response to this request in an administrative, civil, or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3518(c)(1)(B)(ii), because it seeks to collect information from specific individuals or entities as part of an administrative action or investigation.

You must send all of the requested information within thirty (30) calendar days to:

Mr. Yone Yu  
Watershed & Wetlands Branch  
U.S. EPA – Region 5  
77 West Jackson Boulevard, WW-16J  
Chicago, Illinois 60604-3590

  
**Tinka G. Hyde**  
**Director, Water Division**  
**U.S. EPA - Region 5**  
**77 West Jackson Boulevard**  
**Chicago, Illinois 60604-3590**

  
**Date**

## APPENDIX A

Unless otherwise specified, the following general instructions and definitions apply when providing the information requested in Appendix B.

### General Instructions

1. Provide a separate narrative response to each question and subpart of a question set forth in the Information Request.
2. Each response shall identify the number of the question, and if relevant, any subpart to which a response is being provided.
3. Label each document submitted in response to this Information Request with the request number and subpart (if applicable) to which it corresponds. If anything is deleted or redacted from a document produced in response to this Information Request, state the reason for and the subject matter of the deleted or redacted information.
4. If a document you submit is responsive to more than one request, please provide one copy of the document and identify all the requests, by number and subpart, to which it corresponds.
5. For each response, organize the requested information or documents chronologically.
6. When documents or information necessary for a response are neither in your possession nor available to you, indicate in your response why such documents or information are not available or in your possession and identify any source that either possesses or is likely to possess such information.
7. If any documents or information responsive to a request are not known or are not available to you at the time you submitted your response, but later become known or available to you, you should submit the new information as a supplement to your response. If at any time after submission of your response you learn that any portion is or becomes false, incomplete, or misrepresents the facts, you should notify the EPA of this fact as soon as possible and provide a corrected response. If any part of the response to this Information Request is found to be false, the signatory to the response and the company may be subject to criminal prosecution.
8. If you claim that an entire document responsive to this Information Request is withheld on the basis of a privilege, identify the document and provide the basis for asserting any privilege. For any portion of a document that you claim is withheld on the basis of a privilege, provide the portion of the document for which you are not asserting any privilege; identify the portion of the document for which you are asserting any privilege; and provide the basis for such an assertion.

9. You should provide responsive documents or information even though you consider it confidential information or trade secrets. You may assert a business confidentiality claim for part or all of the information requested, as set forth in 40 C.F.R. Part 2, Subpart B. Information covered by such a claim will be disclosed by the EPA only to the extent and only by the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no confidentiality claim accompanies the information when the EPA receives it, the information may be made available to the public by the EPA without further notice to you.

If you would like the EPA to treat any information, document, or response as “confidential,” you must advise the EPA by placing on or attaching a cover sheet to any document or prefacing any response such language as “trade secret,” “proprietary,” or “confidential business information.” You must clearly identify allegedly confidential portions of otherwise non-confidential documents, and you may want to submit these separately to facilitate identification and handling by the EPA. Pursuant to 40 C.F.R. Part 2, Subpart B, the EPA may at any time send you a letter asking you to substantiate your confidentiality claim.

### **General Definitions**

All terms used in this Information Request shall have their ordinary meaning unless such terms are defined in the Clean Water Act, 33 U.S.C. §§ 1251-1387, or the Clean Water Act’s implementing regulations. The following specific definitions shall apply to the Information Request:

1. “Or” shall mean and/or.
2. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun used, and vice versa; and in a similar fashion, the use of the masculine form of a pronoun shall be construed to also include within its meaning the feminine form of the pronoun, and vice versa; and in a similar fashion, the use of any tense of a verb shall be construed to also include within its meaning all other tenses of the verb so used.
3. “Document” is used in its broadest sense and shall mean and refer to all written or graphic matter of every kind and description however produced or reproduced, whether draft or final, original or reproduction.

## APPENDIX B

1. Provide all land documents that reflect your ownership interest in the Site or any portion thereof, including, but not limited to plats of survey, titles, deeds, easements, and property or real estate tax bills. If you do not own the Site, provide copies of the agreements in place that permit you to conduct activities on the land.
2. A Notice of Violation ("NOV") was issued to you on December 3, 2012, by the St. Louis District for the United States Army Corps of Engineers ("USACE"). The NOV states that you discharged fill material into waters of the United States through grading and tree-clearing activities along the shoreline of Moredock Lake. We have information that you conducted these activities at the Site without obtaining a permit under Section 404 of the Clean Water Act, 33 U.S.C. § 3344. Provide the following information with respect to the discharge of fill material at the Site:
  - a) Specific purpose(s) of or reason(s) for the activities;
  - b) Date the activities commenced;
  - c) Date the activities were completed;
  - d) Date any dredge or fill material was first deposited; and
  - e) Date any dredge or fill material was removed.
3. Provide copies of all documents and information you have which describe the Site's physical attributes and the Site's immediate surroundings, including, but not limited to:
  - a) Topographical (elevational) surveys, including any drawing(s) of vertical or horizontal elevations;
  - b) Soil borings or sample data;
  - c) Vegetation identifications, descriptions, or surveys;
  - d) Site hydrological surveys (e.g., data on ground water and surface water flows); and
  - e) Any engineering or Site plans or maps, including any used for permitting.
4. Provide copies of all aerial and ground photos of the Site, which may include original film negatives, positives, digital photos, and/or marked-up aerial photos in your possession. Include a narrative for each photo submitted, providing the date the photo was taken and description of the area depicted in the photo (e.g., directional and orientation references).
5. Provide a detailed description of all earthmoving, construction, excavation, and vegetation-clearing activities that occurred in wetlands, streams, ditches, ponds, and lakes on the Site. Describe all earthmoving, construction, excavation, and vegetation-clearing activities, including, but not limited to, piping, decanting, spilling, trenching, culvert placement, road way construction, drag-lining, mechanized or manual clearing of vegetation, windrowing or stockpiling, grading, grubbing, soil excavation or removal, installation of dams or other water control features, and placing fill or dredged material. Include a timeline of the activities that occurred.

6. Provide a description of the type(s) of equipment and method(s) used to accomplish the activities referenced in Question 5, above.
7. Provide copies of any document(s) that describe the length and area of dredged or fill material placement that you added to, excavated from, or rearranged in wetlands, streams, ditches, ponds, and lakes on the Site. If you have no documents recording the length and area of dredge and fill placement, please provide a narrative response with an estimate of these figures.
8. Provide the name, title, employer, business address, and business telephone number of each person or company, including yourself, who was involved in any of the activities described in your answers to Questions 5-6, above.
9. Provide copies of all documentation (including, but not limited to, field notes, maps, photographs, video, aquatic resource assessments, and wetland delineations) of the efforts you made to determine whether the Site or any portion of it contained wetlands or other waters of the United States (e.g., streams, ditches, ponds, or lakes). Identify by name, title, employer, and business address, all persons involved in this determination.
10. State whether you, individually or as part of a business, partnership, or corporation, have ever applied for or received a permit, including nationwide, regional, general, individual or after-the-fact permits, issued under Section 404 of the CWA, 33 U.S.C. § 1344, or had other prior knowledge of the CWA Section 404 Regulatory program. Provide copies of all relevant documents including, but not limited to, permits, permit application materials, and correspondence specifically mentioning the USACE or the CWA Section 404 program.
11. State whether you, individually or as part of a business, partnership, or corporation, have applied for or received a permit issued by the State of Illinois or its political subdivisions or agencies, including the Illinois Department of Natural Resources and Illinois Environmental Protection Agency, or its local governments, including Monroe County, related to work performed at the Site. Provide copies of all relevant documents including, but not limited to, permits, permit application materials, and correspondence related to processing any permit.
12. State whether you participate in any programs administered by the U.S. Department of Agriculture – NRCS or Farm Service Agency. Provide details about your participation along with copies of documents which specify the contracts, plans, and areas included in the program(s).
13. Provide any other information or documents you deem relevant to this matter.



14. You or a responsible agent must submit all requested information under an authorized signature with the following certification:

I certify under the penalty of law that I have examined and am familiar with the information submitted in responding to this information request for production of documents. Based on my review of all relevant documents and inquiring of those individuals immediately responsible for providing all relevant information and documents, I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.